

**C. REMARKS**

Reconsideration and allowance are requested in view of the foregoing amendments and the following remarks.

**1. Claim Objections**

Applicants have amended claim 3 to include the term –fiducial– after each occurrence of the term “asymmetric” as requested by the Examiner.

Accordingly, withdrawal of this objection to claim 3 is requested.

**2. 35 U.S.C. § 112 Rejection**

Applicants have amended claim 62 to recite “the fiducial marker of said component comprising an alignment-indicating physical shape...” which overcomes the indefiniteness problem noted by the Examiner.

Accordingly, withdrawal of this rejection is requested.

**3. Double Patenting Rejection**

Claim 54 stands rejected under the judicially created doctrine of double patenting over claim 21 of U.S. Patent No. 6,332,269, which is commonly owned by the Assignee.

Applicants are filing a terminal disclaimer herewith which is in accordance with 37 C.F.R. §1.321(c) and obviates the nonstatutory type double patenting rejection.<sup>1</sup>

Accordingly, withdrawal of this rejection is requested.

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<sup>1</sup> See MPEP § 804.02. A rejection based on a nonstatutory type of double patenting can be avoided by filing a terminal disclaimer in the application or proceeding in which the rejection is made. *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Knohl*, 386 F.2d 476, 155 USPQ 586 (CCPA 1967); and *In re Griswold*, 365 F.2d 834, 150 USPQ 804 (CCPA 1966).

**4. 35 U.S.C. § 102(b) Rejection**

Claims 3, 5, 7, 54, and 62-64 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,733,402 to Kawatani ("Kawatani"). Applicants respectfully traverse this rejection.<sup>2</sup>

Applicants have amended independent claim 3 to recite "said physically asymmetric fiducial marker defining a bottom surface of said component that is asymmetric with respect to a top surface of said component."

Applicants have amended claim 54 to recite "said asymmetric fiducial marker defining a bottom surface of said component that is asymmetric with respect to a top surface of said component."

Applicants have amended independent claim 62 to recite "said fiducial marker defining a bottom surface of said component that is asymmetric with respect to a top surface of said component."

Applicants submit that claims 3, 5, 7, 54, and 62-64 recite combinations of features that are neither taught nor suggested by the prior art, including Kawatani alone or in combination with the other references of record, and that such claims are allowable for at least this reason.

Accordingly, reconsideration and withdrawal of this rejection are requested.

**5. 35 U.S.C. § 103(a) Rejection**

Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Kawatani in view of U.S. Patent No. 5,628,110 to Sakaguchi ("Sakaguchi"). Applicants respectfully traverse this rejection.

In the present Office action, the Examiner relies on Sakaguchi to teach "directing, comparing and receiving a pattern of radiation (Fig. 2) for the purpose of disregarding

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<sup>2</sup> See MPEP 2131 citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) ("A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.") and Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) ("The identical invention must be shown in as complete detail as is contained in the ... claim.").

defecting components (see col. 6, lines 13+).<sup>3</sup> Applicants submit that Sakaguchi is devoid, however, of any teaching or suggestion related to a component having a fiducial marker. According, the teachings of Sakaguchi cannot remedy the deficiencies of Kawatani discussed above with respect to amended independent claim 3.

Applicants submit that even if Sakaguchi could be combined with Kawatani, which Applicants do not admit, such combination fails to disclose all the elements of amended independent claim 3. In addition, the prior art of record fails to provide any suggestion or motivation to modify or combine reference teachings or of a reasonable expectation of success.

Applicants submit, therefore, that claim 3 is allowable for at least the reasons set forth above and that claim 9 is allowable by virtue of its dependency, as well as on its own merits.

Accordingly, reconsideration and withdrawal of this rejection are requested.

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<sup>3</sup> See Office action, p. 6.

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**D. CONCLUSION**

Applicants submit this application is in condition for allowance and request favorable action in the form of a Notice of Allowance.

Respectfully submitted,

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